

Senate Bill 400

By: Senators Tolleson of the 20th, Bulloch of the 11th and Meyer von Bremen of the 12th

AS PASSED

AN ACT

To provide for enforcement of laws related to forestry and fire; to provide punishments for certain violations of such laws; to amend Part 1 of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the State Forestry Commission, so as to change certain provisions relating to forestry investigators; to provide for qualifications and powers of such investigators; to provide for arrests; to amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to change certain provisions relating to burning of woodlands, brush, fields, or other lands and destruction of or damage to materials or devices used in detection or suppression of wildfires; to provide penalties for certain arson of lands; to consolidate and harmonize certain provisions relating to arson of lands; to change certain provisions relating to criminal damage to property in the second degree; to include arson of lands as one of the types of arson giving rise to offenses with heightened penalties when certain weapons are possessed or used while committing arson; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 1 of Chapter 6 of Title 12 of the Official Code of Georgia Annotated, relating to the State Forestry Commission, is amended by revising Code Section 12-6-20, relating to forestry investigators, as follows:

"12-6-20.

- (a) The director, with the approval of the commission, may appoint investigators to enforce the forestry laws and regulations of this state.
- (b) The investigators so appointed and any fire-fighting crews under their direction may enter upon any land for the purpose of preventing and suppressing fires and enforcing the fire and other forestry laws and regulations of this state.
- (c) Investigators who have been so appointed and who have been certified by the Georgia Peace Officer Standards and Training Council as having successfully completed the course of training required by Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act,' shall be authorized and empowered to:

- (1) Make summary arrests for violations of the fire and other forestry laws and regulations of this state; and, in case of such arrests, the investigator shall as soon as possible deliver the arrested person or persons to the custody of the sheriff of the county wherein the offense was committed;
 - (2) Arrest persons accused of violating any law or regulation which such investigators are empowered to enforce by the issuance of a citation, provided that the offense is committed in the presence of the investigator or information concerning the offense constituting a basis for arrest was received by the arresting investigator from a law enforcement officer who observed the offense being committed. The arresting investigator may issue to the accused person a citation which shall enumerate the specific charges against such person and the date upon which such person is to appear and answer such charges. Whenever an arrest is made by the arresting investigator on the basis of information received from another law enforcement officer who observed the offense being committed, such citation shall list the name of each officer, and each officer shall be present when the charges against the offender are heard; and
 - (3) Carry weapons in order to enforce the forestry laws and regulations of this state.
- (d) The provisions of paragraphs (1) and (2) of subsection (c) of this Code Section notwithstanding, no arrest shall be made of any person for an offense described in subsection (e) of Code Section 12-6-90 unless on two previous occasions such person was issued warnings by a forestry investigator, other law enforcement officer, or State Forestry Commission firefighter for such an offense.
- (e) If any person charged by citation as provided in paragraph (2) of subsection (c) of this Code section shall fail to appear in court as specified in the citation, the judge having jurisdiction of the offense may issue a warrant ordering the apprehension of such person and commanding that he or she be brought before the court to answer the charge contained within such citation and the charge of his or her failure to appear as required. Such person shall then be allowed to make a reasonable bond to appear on a given date before the court."

SECTION 2.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising Code Section 16-7-23, relating to criminal damage to property in the second degree, as follows:

"16-7-23.

(a) A person commits the offense of criminal damage to property in the second degree when he:

(1) Intentionally damages any property of another person without his consent and the damage thereto exceeds \$500.00; or

(2) Recklessly or intentionally, by means of fire or explosive, damages property of another person .

(b) A person convicted of the offense of criminal damage to property in the second degree shall be punished by imprisonment for not less than one nor more than five years."

SECTION 3.

Said title is further amended by revising and redesignating Code Section 16-7-28, relating to burning of woodlands, brush, fields, or other lands and destruction of or damage to material or devices used in detection or suppression of wildfires, as follows:

" 16-7-63.

(a) It shall be unlawful:

(1) To, with intent to damage, start, cause, or procure another to start or cause a fire in any woodlands, brush, field, or other lands that are not one's own and without the permission of the owner or the lessee having control of such property;

(2) To burn any brush, field, forest land, campfire, or debris, whether on one's own land or the lands of another, without taking the necessary precautions before, during, and after the fire to prevent the escape of such fire onto the lands of another. The escape of such fire shall be prima-facie evidence that necessary precautions were not taken;

(3) For any person to cause a fire by discarding any lighted cigarette, cigar, debris, or any other flaming or smoldering material that may cause a forest fire; or

(4) To destroy or damage any material or device used in the detection or suppression of wildfires.

(b) This Code section shall not apply to fire resulting from the operation of transportation machinery or equipment used in its normal or accustomed manner.

(c)(1) Any person who violates paragraph (2), (3), or (4) of subsection (a) of this Code section shall be guilty of a misdemeanor.

(2) Any person who violates paragraph (1) of subsection (a) of this Code section shall be guilty of arson of lands in the third degree and shall be punished the same as provided by subsection (c) of Code Section 16-7-62 for arson in the third degree.

(3) Any person whose violation of paragraph (1) of subsection (a) of this Code section results in a fire that burns more than five acres that are not one's own shall be guilty of arson of lands in the second degree and shall be punished the same as provided by subsection (c) of Code Section 16-7-61 for arson in the second degree.

(4) Any person who violates paragraph (1) of subsection (a) of this Code section under such circumstances that it was reasonably foreseeable that human life might be endangered shall be guilty of arson of lands in the first degree and shall be punished the same as provided by subsection (c) of Code Section 16-7-60 for arson in the first degree."

SECTION 4.

Said title is further amended by revising paragraph (1) of subsection (a) of Code Section 16-11-160, relating to use of certain weapons during commission of certain offenses and enhanced criminal penalties therefor, as follows:

"(a)(1) It shall be unlawful for any person to possess or to use a machine gun, sawed-off rifle, sawed-off shotgun, or a firearm equipped with a silencer, as those terms are defined in Code Section 16-11-121, during the commission or the attempted commission of any of the following offenses:

- (A) Aggravated assault as defined in Code Section 16-5-21;
- (B) Aggravated battery as defined in Code Section 16-5-24;
- (C) Robbery as defined in Code Section 16-8-40;
- (D) Armed robbery as defined in Code Section 16-8-41;
- (E) Murder or felony murder as defined in Code Section 16-5-1;
- (F) Voluntary manslaughter as defined in Code Section 16-5-2;
- (G) Involuntary manslaughter as defined in Code Section 16-5-3;
- (H) Sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances in violation of any provision of Article 2 of Chapter 13 of this title, the 'Georgia Controlled Substances Act';
- (I) Terroristic threats or acts as defined in Code Section 16-11-37;
- (J) Arson as defined in Code Section 16-7-60, 16-7-61, or 16-7-62 or arson of lands as defined in Code Section 16-7-63;
- (K) Influencing witnesses as defined in Code Section 16-10-93; and
- (L) Participation in criminal gang activity as defined in Code Section 16-15-4."

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.